

The import game

Know the rules before you get involved

By Bill O'Brien

If you work in aviation any length of time, sooner or later someone will want you to act as their agent to import an aircraft into the good old U.S. of A. You should be aware that the importing process gives the technician the choice of picking between two diverse and unique maintenance career experiences:

You can choose to be a participant in a rather dull inspection and paperwork exercise in which the only thanks you will get is your paycheck and a limp handshake. Or you can do very little planning, and turn the import process into a world-class nightmare that will qualify you for a four-week stay at the Betty Ford Clinic.

Before we discuss the rather unique subject of importing aircraft, I would like to pass on a bit of advice that was given to me in third grade by a very good-hearted, but very disappointed nun: "Mr. add your own name — there is no substitute for a genuine lack of preparation."

That being said, importing an aircraft cannot be accomplished by "winging it." Before you attempt to act as someone's agent, or even import an aircraft for yourself, you must first do your homework, study hard, ask all kinds of questions, and develop a plan of action.

To help you get smart in a hurry, the following documents are available from the government printing office. They should cover 99.9 percent of the problem areas that you could possibly run into.

- Advisory Circular (AC) 21-23 Airworthiness Certification of Civil Aircraft, Engines, Propellers, and Related Products Imported to the United States.
- Advisory Circular (AC) 21-18 Bilateral Airworthiness Agreements
- Advisory Circular (AC) 21-20 Supplier Surveillance Procedures
- Advisory Circular (AC) 20-5G Plane Sense
- Federal Aviation Regulations: Parts 21, 39, 43, 45, 47, 49 and 91

Secure the deal

Approximately 20 percent of the aircraft that apply for a U.S. airworthiness certificate fail. Of that 20 percent at least half fail because the aircraft flunked the conformity inspection due to some previously unknown or undisclosed airworthiness problems.

Half of the remaining import applications fail because the maintenance records are missing, incomplete, or fraudulent entries are found. The rest fail because of arguments between the buyer and the seller over who will pay for a maintenance fix.

To prevent becoming immersed in a messy process, insist on a written contract between you and your customer. The contract should identify your fee, list your duties and responsibilities, define your authority to make decisions, and should include a no-fault clause in the event the aircraft is not issued an airworthiness certificate because you found something wrong with it. While I agree that drawing up a written contract is a time-consuming chore, it sure is good insurance when the deal goes sour.

What you need

The obvious item you need is a Federal Aviation Administration Airworthiness Certificate. There are two kinds: the first and most popular is an FAA Form 8100-2, standard airworthiness certificate. It is printed on white paper and perhaps ranks first as one of the most unread and least understood documents that the FAA issues.

The other is a special airworthiness certificate on FAA Form 8130-7 which is pink and is issued to aircraft that either do not meet their original type certificate, or never were issued an FAA-type

certificate. Restricted, limited, provisional, primary, and experimental aircraft are issued the pink airworthiness certificate.

For the purposes of this article, I will limit discussion to importing a generic aircraft and how to apply for a standard airworthiness certificate and registration. Keep in mind, however, the following importing procedures are identical for a J3-65 Cub or a Gulfstream IV.

#### Requirements for a U.S. airworthiness certificate

There are three requirements for a U.S. airworthiness certificate. The first requirement is the aircraft has to be “airworthy!” The aircraft must meet all the requirements of the current FAA-type certificate and be in a condition for safe operation.

The second requirement is that all the application requirements are satisfied. The third requirement is that the aircraft is properly registered and marked with the correct N-number. Your action plan should address the procedures to accomplish all three requirements.

#### FAA airworthiness determination

The FAA can find that an imported aircraft is airworthy wholly or partially based on the fact that the aircraft has an Export Certificate of Airworthiness, or its equivalent, from the exporting country. This is provided that a Bilateral Airworthiness Agreement is in place between the United States and the other country which provides for such acceptance.

A Bilateral Airworthiness Agreement is a written agreement between countries that, with some exceptions, states that each country agrees to accept the other country’s airworthiness standards, and airworthiness determinations without further examination. (see AC 21-18)

However, while these bilateral agreements cut the red tape burden in half, for your customer’s protection, it’s best to follow a former U.S. president’s example of foreign policy when he said: “Trust, but verify.”

Before money changes hands, you should do a conformity inspection on the aircraft. This conformity inspection is a lot more picky than an annual type inspection. In addition to normal inspection items, the conformity inspection checklist should contain at least the following items:

##### 1. Engine/ airframe/ propeller data plates:

Check the logbooks and ensure that the numbers match. (Ref. FAR 21. 182 and FAR 45, Sub part B).

##### 2. Airworthiness directives:

Check the ADs for all installed equipment. In the haste to purchase the aircraft, don’t overlook such minor items such as seat belts. The last time I looked there were 18 ADs on seat belts. Now the price of two sets of seat belts for a J3-Cub won’t cause the owner to raid your retirement fund, but 10 sets or more he probably will.

##### 3. Required operational equipment:

Does the required equipment meet FAA-type design? Do you have an altimeter made in the former Soviet Union? Find out what kind of operation the aircraft is going to be used for, Part 91 or Part 135, and check if the FAA requires additional equipment like a weather radar or static/altimeter checks. In some cases installed equipment required by the exporting country may have to be removed.

##### 4. Noise/emissions:

The aircraft should meet noise and emissions requirements of FAR 21, 36, 91, SFAR 27 and 41 as applicable.

##### 5. Manuals, markings, and placards:

Check the aircraft’s flight manuals, markings, and placards, against the aircraft’s type certificate data sheet. The flight manual should have the latest revision and be in English. The same goes for all the placards, and markings both inside and outside of the aircraft.

#### 6. Record keeping:

Check for a current and accurate weight and balance report, equipment list, status of life-limited parts, airworthiness directives status list, total time of the engine(s) airframe, propeller(s), list of major alterations (hopefully on an FAA Form 337), time on all items required to be overhauled, and current inspection status of the aircraft. Again all these records have to be in English.

#### 7. Maintenance records:

Should identify any maintenance that was performed, and include a description or reference to the acceptable data that was used, the date the work was completed, the signature and certificate number (if any) of the person approving the work for return to service. Depending on the size of the aircraft, you could save a lot of time if you perform an in-depth paperwork review before the aircraft leaves its country of registry.

#### 8. Additional maintenance records:

Ensure that the spare parts that came with the aircraft meet FAR 21.303 and have the proper documentation. Also check all major repairs and alterations to see they were performed using FAA-approved data. If during your paperwork review you find a major repair or major alteration that was performed without FAA-approved data, you must get the FAA to approve the data used before the exporting Civil Air Authority issues their Export Certificate of Airworthiness.

#### 9. Large or turbine-powered:

If the imported aircraft is 12,500 pounds or heavier and/or is multiengine, turbine-powered, you must determine how the previous operator's inspection program will interface with one of the four inspection options under FAR, section 91.409(e)(f). Although this is not required for the issuing of the airworthiness certificate, one second after the ink dries, the aircraft must be on an FAR 91.409 inspection program before it is flown.

What is the technician held responsible for?

Over and above the existence of an Export Certificate of Airworthiness from the exporting country's Civil Air Authority, it remains the responsibility of the technician who approves the aircraft for return to service to determine that the:

1. Aircraft has not been modified, changed, or damaged subsequent to the time of the foreign Civil Air Authority's issuance of the Export Certificate of Airworthiness.
2. The aircraft complies with all applicable airworthiness directives.
3. The aircraft meets the FAA-type design and is in a condition for safe operation.
4. All the necessary maintenance information and documentation is provided.

#### Application process

The application for a U.S. airworthiness certificate is made on an FAA Form 8130-6, and you can pick up one of these forms at your friendly local FAA Flight Standards District Office (FSDO) or FAA Manufacturing Inspection District Office (MIDO).

While you are there, talk to an FAA airworthiness or manufacturing inspector and find out which FAA entity will handle the issuing of the airworthiness certificate: the FSDO or MIDO. The MIDOs are the primary offices for issuing original airworthiness certificates, but some certification work is delegated to the FSDO, such as recurrent airworthiness certificates.

Once you've nailed down the office you will have to work with, then you can submit a completed and signed FAA Form 8130-3 Application, along with the Export Certificate of Airworthiness from the exporting country's Civil Air Authority. The logbooks, flight manuals, and maintenance records need not be submitted to the FAA at this time, but you should keep them handy in case they ask for them, and they will ask for them — most likely when they take a look at the aircraft.

Now before we go any further, let me explain what an Export Certificate of Airworthiness (EC of A) is, and what it is not. The Export Certificate of Airworthiness is a certification from the

exporting Civil Air Authority that the aircraft identified on the document is airworthy and conforms to the aircraft's FAA-type design.

However, please remember that an Export Certificate of Airworthiness is NOT the exporting country's airworthiness certificate. It is an affidavit only and not an authority to operate.

As I mentioned earlier, if you found any major modification and repairs that were not FAA-approved, you must get FAA approval for the repairs before the foreign Civil Air Authority issues their Export Certificate of Airworthiness. Otherwise, the FAA will not issue the airworthiness certificate.

So far the importing process is pretty much comic book simple, but it can get complicated if you import an aircraft, from what is called a "third country." A third country is one which is attempting to export an aircraft to the United States that was built in a country other than the United States — and which was originally exported to a country other than the United States. Since there was no tie-in to the FAA certification process, the Civil Air Authority of the third country has issued an export certificate attesting to conformity to a design other than those approved by the FAA.

In these kinds of cases, or when the export certificate of airworthiness is not available, it would be helpful if the applicant obtained a statement from the CAA of the country of manufacture. This statement should certify that, when originally exported from that country, the aircraft met its FAA-approved design and/or the certificate should identify any differences between the configuration in their original export certification and FAA-approved design.

If you find that the exporting country's paperwork is messed up, I recommend that you either gracefully bail out of the project or you better bring a freezer filled with sandwiches, a barrel of root beer, and a couple of good books to read. Because country-to-country negotiations over a single aircraft's state of airworthiness are not noted for their quick or satisfactory conclusions.

Registration: how to apply

Although applying for a U.S. registration and N-number is the most simple of the three procedures, it is the most important for three reasons.

First, the FAA cannot issue an airworthiness certificate unless the aircraft is properly registered.

Second, as a technician you cannot legally sign off a conformity inspection under Part 43.11 until the imported aircraft is U.S.-registered. As a certificated technician you are eligible to approve for return to service only U.S. registered aircraft.

Finally, no one can legally fly the aircraft without it first being registered.

When you apply for an N-number using FAA registration application form 8050-1, you must send a \$5.00 check or money order made out to the Treasury of the United States along with your registration application to cover recording costs.

If you have no special N-number preference, the FAA will assign to your aircraft the next registration number in their data bank.

However, if your customer wants a personalized number, you must write a letter to the FAA Registry in Oklahoma City and ask them if the number you want is currently assigned. The personalized number must not exceed five characters in addition to the prefix letter "N." All five characters following the "N" may be numbers N(12345) or four numbers and one suffix letter N(1234A) or you can choose one-to-three numbers and/or two suffix letters N(12BB).

I recommend that you supply FAA registry a list of at least five possible "N" numbers in order of preference in the event the first choice is already accounted for. The registry charge is \$10.00 for this service, and they will hold the number in the applicant's name for one year, after which if the applicant has not painted the assigned number on a fuselage, or has not paid another \$10.00 to hold the number for another year, the number is then returned to the data bank.

Remember, get the personalized number assigned to the aircraft first, then register the aircraft to that number by putting the “assigned personalized” N number in the first block of the registration form.

Along with the registration form, and \$5.00 check, you should send in a copy of the bill of sale. You can use AC form 8050-2 which is also available from the local FAA district office. If you are meeting the ownership requirement by registering the aircraft under the provisions of a conditional sales contract, include another \$5.00 for recording the paperwork.

When registering an imported aircraft, you must supply some evidence of deregistration from the exporting country’s aircraft registry. The FAA, by international law, cannot put the aircraft on U.S. registry if the aircraft has not been taken off the other country’s registry.

In addition, the applicant must meet all the marking requirements of Part 45, all the registration requirements of Part 47, and all the recording of aircraft titles and security documents addressed by FAR 49. If you need some help to sort out some of the import requirements, you can contact FAA Civil Aviation Registry at (405) 954-3116.

Some other bits of useful information

Unless the FAA finds it to their advantage, they will not issue an FAA airworthiness certificate to an aircraft located outside of the United States.

If you come across mandatory service bulletins in the aircraft’s maintenance records, that the exporting country required to be accomplished, don’t panic. The FAA does not consider a service bulletin or similar instruction to be mandatory unless it is part of an FAA airworthiness directive. If possible, make sure that when the maintenance documentation has been translated into English, the translator provides a certification statement that all the maintenance records have been translated into English to the best of his/her ability.

The certification should be signed and dated, and list a place where the translator can be reached if any questions come up. This certification is not required by the FAA, but such a document may avoid any questions being raised on the accuracy of the translation later on.

If there is a break in the chain of ownership of the aircraft, such would be the case if it’s not being purchased from the last registered owner, the applicant must submit conveyances to complete the chain of ownership, through all intervening owners, including yourself, to FAA Registry.